

SENATE BILL REPORT

SB 5544

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, February 17, 2009

Title: An act relating to affordable housing incentive programs.

Brief Description: Concerning affordable housing incentive programs.

Sponsors: Senators McDermott, Fairley, Kline, Kastama, Hobbs, Kilmer, Pridemore and Kohl-Welles.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 2/10/09, 2/17/09 [DPS].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: That Substitute Senate Bill No. 5544 be substituted therefor, and the substitute bill do pass.

Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin, McDermott, Parlette and Schoesler.

Staff: Diane Smith (786-7410)

Background: Under statutory authority pre-dating the Growth Management Act (GMA) some counties planned for growth and continue to do so, even though they have not opted-in to the GMA.

As of 1990, some counties, and the cities located within those counties that are planning under the GMA, must adopt comprehensive land use plans. These comprehensive plans are generalized, coordinated land use policy statements of the local government's governing body. These local governments must also adopt development regulations that are consistent with, and implement, the comprehensive plan.

Comprehensive plans are required to include a housing element, which provides (1) an inventory and analysis of existing and projected housing needs; (2) a statement of policies for the preservation, improvement, and development of housing; (3) identification of sufficient land for housing; and (4) adequate provisions for the existing and projected needs of all the communities' economic segments.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The GMA requires counties to designate Urban Growth Areas (UGAs), or areas within which urban growth must be encouraged and outside of which growth can occur, only if it is not urban in nature or falls into an exception to this requirement.

Local governments may impose a local sales & use tax, as well as a tax on lodging, but otherwise state law, generally, prohibits excise taxation at the local level, including on building construction or land development. However, local governments are allowed to impose certain fees and charges, including impact fees, special assessments, permit processing fees, utility system charges, and transportation benefit district fees. Additionally, local governments' authority to implement affordable housing incentive programs is not limited by the general prohibition on local government's imposition of excise taxes.

Local governments fully planning under the GMA may enact or expand affordable housing incentive programs, providing for the development of low-income housing units. Incentive programs may include, but are not limited to, provisions pertaining to density bonuses within the UGA; height and bulk bonuses; mixed-use projects; fee waivers or exemptions; parking reductions; or expedited permitting, conditioned on the provision of low-income housing units.

Incentive programs are authorized, described, and limited in terms of housing units. Low-income housing units developed under an affordable housing incentive program are encouraged to be provided within market-rate housing developments for which a bonus or incentive is provided. Local programs have the option of allowing units to be provided in adjacent buildings. There is the further option of allowing payments in lieu of low-income housing units if the payments equal the approximate cost of the units that would otherwise have been developed.

Summary of Bill (Recommended Substitute): When planning under the GMA, local governments' conditions on rezoning and permit decisions may be used, in addition to development regulations, to expand affordable housing incentive programs through residential, commercial, and industrial or mixed-use types of development.

The focus of the incentive program is changed from housing units to development generally. Local programs may provide encouragement for the low-income housing units to be provided within developments, not limited to market-rate housing developments, for which a bonus or incentive is provided. Programs may also allow units to be in a building located in the general area of the development for which a bonus or incentive is provided. The assigned value for a payment in lieu of low-income housing units is based on the result achieved by providing the affordable housing on-site.

The requirement that low-income housing units be provided in a range of sizes comparable to those available to other residents is extended to developers of market-rate housing and low-income housing to satisfy the requirements of the housing incentive program.

EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, HOUSING & INSURANCE COMMITTEE (Recommended Substitute): A reference to "chapter" was changed to "section" to reflect the original intent of the drafter.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This bill amends legislation passed two years ago that we have seen, after using this authority, needs three simple changes. We need to be able to build the affordable housing beyond the "adjacent" requirement because in urban areas adjacent land may not be obtainable. The density bonus should be able to be used by commercial developers so that true mixed-use building can take place. We have found that the word adjacent is of ambiguous meaning in the subdivision context. We need to focus on producing affordable housing, not on just writing a check for the payment-in-lieu. Without these changes, implementation of incentive zoning plans is difficult. This bill actually helps us achieve the balance of jobs and housing that is our goal. This bill adds the flexibility to use the program in an effective way, especially in putting commercial jobs near affordable housing.

Persons Testifying: PRO: Adrienne Quinn, Seattle Office of Housing; Hal Ferris, Spectrum; Dave Williams, Association of Washington Cities; April Putney, Futurewise.